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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20540

FILE: B-204959

DATE: July 30, 1982

MATTER OF: VSI Corporation, Aerospace Group

DIGEST:

1. Protest is dismissed as moot where the contract awards and pending solicitations against which the protest is directed have been canceled.
2. Agency acted properly in terminating contracts and canceling pending solicitations since the contracts and solicitations were based upon incomplete specification documents.
3. Procurement of parts on a source controlled basis under Defense Acquisition Regulation § 1-713(c) is justified when the available specification documents are incomplete and the original equipment manufacturers' drawings show only two other manufacturers as approved sources.

VSI Corporation, Aerospace Group (VSI) protests five contracts awarded by the Defense Industrial Supply Center (DISC), a subordinate activity of the Defense Logistics Agency, to Space-Lok Inc. (Space-Lok) under solicitations DLA500-81-B-1201, DLA500-81-B-2829, DLA500-81-B-2775, DLA500-81-B-2581, and DLA500-81-B-2742. The contracts were for the procurement of panel fasteners used to align and attach the structural doors and panels in a number of military aircraft. VSI also protests solicitations DLA 500-81-B-1221, DLA500-81-B-1271, DLA500-81-B-1288, DLA500-81-B-2620, DLA500-81-B-2229 under which additional panel fasteners or component parts were to be procured.

All of the solicitations made reference to the "Milson Standard," a specification document prepared by an industry group known as the Milson Standard

Engineering Committee (Committee). Subsequent to the filing of a protest with the agency by VSI, DISC learned that the Milson Standard documents it had on file were incomplete and outdated and that current specifications for the Milson panel fastener were considered proprietary. The aircraft manufacturers had designated only two other manufacturers as approved sources for the device. In light of this information, DISC determined that procurement of the fasteners by formal advertising had been inappropriate because bidders may have submitted offers based on less than complete information. DISC decided to terminate all contracts and pending solicitations and to procure the fasteners by Original Equipment Manufacturer (OEM) part number on a controlled source basis. Given this development, the protest by VSI against the contracts and solicitations is now academic and is, therefore, dismissed. Lorv Industries Incorporated, B-199602, October 22, 1980, 80-2 CPD 310; Kan-Du Tool & Instrument Corp., B-206739, June 1, 1982, 82-1 CPD ____.

We note, however, that Space-Lok complains that the net result of the decision to terminate all contracts and pending solicitations and to proceed with this procurement on a controlled source basis is to restrict competition to the two approved sources when Space-Lok has already demonstrated that it was the lowest responsible bidder. Space-Lok also questions the basis upon which the two manufacturers have been designated as approved sources and requests that no contract be awarded to either manufacturer until each has requalified by meeting the same standards as those required of Space-Lok in its efforts to become an approved source.

As to the first of Space-Lok's concerns, we believe that the agency acted properly in terminating the contracts awarded to Space-Lok and in canceling the outstanding solicitations. The Government had no access to the latest revisions to the specification document

upon which the solicitations were based because they were considered proprietary. Without the revisions, the data it had furnished were inadequate for the manufacture of the supplies. Similarly, the Government could not determine whether the items to be supplied by Space-Lok would meet its needs. Under these circumstances, the agency had a reasonable basis for deciding that its solicitations were deficient and that solicitation cancellation and termination for the convenience of the Government of contracts already awarded to Space-Lok with the same deficient specifications were appropriate.

We also believe that the agency was justified in then electing to procure the needed items on a controlled source basis. Defense Acquisition Regulation § 1-313(c) provides that parts for which fully adequate manufacturing drawings or the other needed data are unavailable should be procured only from sources that have satisfactorily manufactured such parts in the past. The OEM drawings in this case indicate that at the time Space-Lok submitted its comments, only two manufacturers had satisfactorily manufactured the parts required by DISC. We have since been informed that Space-Lok has been named as an approved source for three items being purchased by DISC. At such time as Space-Lok is approved as a qualified source for additional items, its parts numbers will be added to the list.

Space-Lok's second concern involves the qualification of two other manufacturers as approved sources. In this connection we note both that VSI asserts that it was a licensee of the OEM for the manufacture of the fasteners and that the agency states that VSI and one other firm are listed as approved sources for this material on the current OEM drawings in possession of the agency. We think then, that the agency can reasonably conclude that the specified sources are still approved by the OEM under its qualification procedures.

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The protest is dismissed.

For *J. H. Barclay, Jr.*
Harry R. Van Cleve
Acting General Counsel